UNITED
NATIONS

CCPR

International covenant
on civil and
political rights

Distr.
GENERAL

CCPR/CO/71/DCM/Add.1
28 May 2002

ENGLISH
Original: SPANISH

HUMAN RIGHTS COMMITTEE

COMMENTS BY THE GOVERNMENT OF THE DOMINICAN REPUBLIC ON THE CONCLUDING OBSERVATIONS OF THE HUMAN RIGHTS COMMITTEE (CCPR/CO/71/DOM)

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GE.02-42231 (E) 030702

Introduction

1. The Dominican Republic has studied the concluding observations of the United Nations Human Rights Committee (CCPR/CO/71/DOM) and wishes to submit its comments on those observations. In responding to the Committee's concerns, we have prepared general comments on the topics that are of particular interest to the Committee, and have referred to the paragraph numbering system used by the Committee in replying to the specific questions it raised.

I. ADMINISTRATION OF JUSTICE AND PRISONS

Administration of justice

2. Extensive structural changes have been made in order to strengthen the legal order, in an effort to achieve more effective protection of Dominicans' human rights.

3. The Commissioner for the Reform and Modernization of the Justice System plays a significant role in efforts to strengthen our justice system. Decree No. 22-98 of 12 January 1998 laid down various guidelines for the Commissioner to follow in carrying out projects and activities: these include improvement of the prison system; modernization of legislation; improvement of the productivity of the justice system; promotion of mechanisms to assist and defend the most vulnerable people; and support for the juvenile justice system. The Commissioner provides valuable support to the judicial reform process through his participation in events such as conferences, workshops and symposia on subjects relating to the system of justice and has strengthened awareness of the need to coordinate the work of the different actors of the system. The contributions to the reform of the Commissioner's Office and modernization of the justice sector at the national level have taken the form of coordination of efforts to amend substantive and procedural legislation under the responsibility of the commissions for the revision of the Civil, Criminal and Commercial Codes and the Codes of Civil and Criminal Procedure. Its work has extended to include the strengthening not only of the judiciary, but also of the Public Prosecutor's Office.

4. Training projects for the Public Prosecutor's Office were launched, and the Public Prosecutor's Office Statute was drawn up and approved, granting that institution functional and administrative independence.

5. Similarly, projects have been launched to modernize the conduct of judicial proceedings, such as the "Project on the Modernization of the Courts", funded through the "Agreement for the Strengthening of the Rule of Law and Human Rights" concluded between the Dominican Republic and the United States of America and the counterpart corresponding to the Dominican Government and the Supreme Court of Justice, through which computer equipment was acquired for installation in the different departments of the Office of the National District prosecutor and in the criminal divisions.

6. More than 6,000 persons have been beneficiaries of the "Commissioner's Public Defence Programme", which is a free legal defence service for all detainees who cannot afford to hire a private lawyer. The programme deals with 700 to 800 cases per month.

7. Another important programme is the Programme of Support for Investigation of Reports of Sexual Abuse of Minors, which supports investigations by the Public Prosecutor's Office in such cases by providing medical and psychological assistance.

8. Likewise, the Programme of Support for the Administration of Juvenile Justice is aimed at expediting the establishment of a large number of specialized children's courts, setting up a system of full jurisdiction for teenage offenders and ensuring that prisons holding minors are renovated and equipped.

9. New mechanisms for dispute settlement, such as the Community Mediators, have been implemented; their purpose is to lighten the caseload of the traditional courts. Two centres are currently located in the María Auxiliadora and Los Alcarrizos districts. The Commissioner for the Reform of the Justice System, with support from the National District Prosecutor's Office and the Agency for International Development, are studying ways to expand such services significantly.

10. The appointment of a coordinating judge by the Supreme Court of Justice has led to an increased level of supervision and helped expedite the assignment of cases to examining courts at the pre-trial stage.

11. Similarly, the provisions issued by the Office of the Attorney-General concerning the 48-hour time limit laid down in the Constitution have resulted in greater efforts on the part of the prosecutors, who have been taking more responsibility for the operation of the system, especially in police stations.

12. One of the most important amendments to Dominican legislation was the adoption of Act No. 19/01, instituting the People's Advocate as an independent authority responsible for safeguarding the citizens' personal and collective rights in case of violation by public officials.

II. RIGHTS TO LIFE, PERSONAL SECURITY AND PERSONAL LIBERTY

13. The Government, aware of the fact that there may be isolated cases of abuses against the physical and psychological integrity of Dominican citizens committed by National Police officers, has undertaken a number of reforms aimed at changing the behaviour of the security forces, including the following:

Restructuring of the National Police

14. The recently-established Office of the Commissioner for the Reform and Modernization of the National Police, which is responsible for coordinating efforts to control police corruption and avoid abuse of Dominican citizens, prepared a draft law on the restructuring of the police, which is aimed primarily at making the police force into an effective instrument for enforcement of the rule of law and a respected service institution dedicated to the protection of human rights. The draft is currently being considered by the Chamber of Deputies, where it has been the subject of extensive debate; public hearings have accordingly been scheduled for its discussion in an effort to expedite adoption. Among the amendments contained in the draft law is the establishment of a Higher Police Council, to be composed of the Minister of the Interior and

Police, the Attorney-General, the National Police Commissioner and other officials. The Council will be the body responsible for determining which cases will be heard by ordinary courts and which by police courts. The proposed legal framework provides for obligatory participation by the Council together with a representative of society at large whenever "sensitive" cases are investigated. Another significant amendment contained in the preliminary draft law is the fact that excesses by the police will be within the competence of the ordinary courts. The draft also provides for the establishment of a Community Police Force, in order to involve the community in identifying and solving its own problems. The reform is primarily aimed at promoting institutional changes to raise the public's trust and at emphasizing respect for individual rights.

15. It should be noted that the Attorney-General, applying current legislation, has been able to obtain intervention by the ordinary system of justice to oppose unjust decisions by the police courts, by seeking judicial review in the interest of the law and for abuse of power in respect of a Police Court judgement (20 February 2001) or to ensure that police officers are tried by ordinary courts, as in the case of the recent disturbances in the Capotillo district of Santo Domingo.

Human Rights Institute of the Armed Forces

16. One of the current Government's first initiatives, in August 2000, was the establishment of the Human Rights Institute of the Armed Forces and the programme entitled "Gran General Restaurador Gregorio Lupéron". Through the Institute, the armed forces seek to raise members' awareness of the need to respect human rights. The programme is aimed at raising the educational level and professionalism of military personnel. It must be borne in mind that the armed forces were limited to playing a repressive role for decades. However, "In the last few years, the armed forces have been going through a process of professionalization ... in which the scope of the social and cultural knowledge of military personnel has been expanded. The result is an army ... with a better awareness of its role, which results in an improvement in relations between civilians and military personnel." (Vecinos, July 2001).

Public advisers

17. The Commissioner for the Reform and Modernization of the Justice System has established a new group of assistants for the protection of inmates in the country's prisons. The public advisers operate in prisons throughout the country to help prisoners follow the development of their cases, provide them with legal assistance and ensure that their rights are protected. They also have a permanent office in the Santo Domingo courthouse. This body of advisers also works to protect the human rights of persons being detained by the National Police, from an office in the Santo Domingo main police station; its members try to be present during questioning in order to avoid potential abuses and ensure that the Habeas Corpus Act is applied.

Achievements

18. The following significant achievements are worthy of mention:

There have been no cases of enforced disappearance;

Dominican courts convicted the persons accused of the 1975 murder of journalist Orlando Martínez Howley;

There has been a significant increase in the number of members of the State security forces who have been tried by ordinary courts;

Police raids have been sharply decreased;

There has been a decrease in ill-treatment of detainees in police custody.

Prisons

19. The Directorate of Prisons is currently responsible for 32 establishments, containing a population of 16,036 inmates as of August 2001. The country's prisons are under the supervision of a prison governor, who is a civilian official appointed by the executive. However, due to administrative deficiencies and prison staff's lack of training, the military and police personnel responsible for security in the prisons become de facto directors of such establishments. To address this situation, the Directorate of Prisons prepared and transmitted for consideration to the Attorney-General a draft statute establishing a prison administration training school to provide specialized training for civilian staff enabling them to administer and supervise prisons and to take over the functions currently performed by the army and police.

20. A series of measures have been taken by the Attorney-General and the Directorate of Prisons to improve the living conditions of Dominican prisoners.

21. **Prison overcrowding.** One of the most important measures taken to alleviate chronic overcrowding in the prisons has been the creation of new places and refurbishment of existing ones. For example, 880 additional places have been created in the judicial department of Santo Domingo. The following are other measures that have been taken to eliminate prison overcrowding:

(a) Increased number of persons granted presidential pardons;

(b) Increase in the number of prisoners released due to illness (25 prisoners so far this year);

(c) Instructions from the Attorney-General to the members of the Public Prosecutor's Office not to appeal decisions by the judiciary unless strictly necessary;

(d) Acquisition of new means of transport for taking prisoners to the courts.

22. In addition to the measures described above, efforts are focusing on more efficient use of legal measures such as release on bail and habeas corpus.

23. This series of measures has led to a substantial reduction in the prison population; some 1,000 inmates were released last year.

24. Lastly, the Office of the Attorney-General is preparing to begin construction of two new prisons, using modern methods, with a 2,800-inmate capacity.

25. **Legal assistance and other benefits for prisoners.** The Commissioner for the Reform and Modernization of the Justice System has established a public defence programme to provide legal aid for prisoners throughout the country, in addition to court-appointed lawyers and university legal aid programmes for prisoners. The public defence programme assists prisoners from the moment they are taken into custody.

26. The Directorate of Prisons has been conducting periodic legal support initiatives aimed at accelerating proceedings by helping inmates with formalities. It is also investigating reports of ill-treatment of prisoners and ensuring that those responsible are punished. New methods of searching visitors are also being studied.

27. In order to enforce the principle of separation of inmates by category, in 2001 the authorities opened the Centre for Legal Assistance to Minors in Conflict with the Law in Najayo, San Cristobal, which has specialized staff and appropriate infrastructure for the rehabilitation of child offenders. A women's matrimonial wing was opened, also in Najayo, to enable female prisoners to receive visits from their husbands.

28. **Conditions with regard to health and food.** The competent authorities have enhanced prisoners' quality of life by improving conditions with regard to health and food. Food and drinking water are supplied in accordance with international standards. Prison governors have been instructed in water purification. The Dominican State provides catering services for prisons throughout the country. More than 10,000 mattresses have been distributed and flush trucks are sent to clean septic tanks. Health personnel have also been assigned to 21 of the country's 32 prisons.

29. **Rehabilitation, work and recreation.** Current prisoner rehabilitation programmes accord crucial importance to work and education for the inmates. Various initiatives have been undertaken to develop productive work in the different prisons, including the Agreement on Technical Advisory Assistance concluded between the Directorate of Prisons and the Department of Agriculture for the conducting of programmes on the growing of fruit and vegetables both for the prisoners' consumption and for sale.

30. To facilitate inmates' reinsertion into society on leaving prison, labour training courses are being offered, together with literacy and primary and secondary education programmes and specialization courses. Consideration is also being given to inmates' recreational activities, and recreational facilities have been expanded in some prisons, such as La Vega, where two sports arenas have just been built. The Directorate of Prisons has several plans scheduled for

improvement of prison compounds and prisoners' living conditions; these include the opening of the Department of Post-Prison Control and the computerization of a register of persons deprived of their liberty.

Specific questions raised by the members of the Committee

31. **Paragraph 8.** The right to life guaranteed in article 6 of the International Covenant on Civil and Political Rights is given constitutional status in the Dominican Republic, being enshrined in article 8, paragraph 1 of the Constitution; violation of this right is punished severely, with penalties of up to 30 years' imprisonment, under articles 295 et seq. of the Dominican Penal Code and, in respect of police officers, under articles 181 et seq. of Act No. 285 of 29 June 1966. In all cases of violation of this fundamental right, those responsible are dealt with by the relevant court. The Dominican Republic is fully prepared to inform the Committee of the status of every specific case where this right has been violated. We would also like to state that in accordance with Executive Decree No. 237 of 14 February 2001, the Police Reform Commission was ordered to issue regulations for the use of force by police officers; the regulations were approved by decision No. 5 of 11 February 2002 of the Minister of the Interior and Police.

32. **Paragraph 9.** As the Committee notes, torture is prohibited by the Constitution of the Republic. In addition, article 1 of Act No. 24-97 states: "The following are considered to be torture or barbarous acts: any act carried out as a method of criminal investigation, incriminatory measure, corporal punishment, preventive measure, criminal penalty or for any other purpose, which causes injury or physical or mental suffering ...". Similarly, article 303-4 of the Act punishes torture or barbarous acts by 30 years' imprisonment, in particular, according to paragraph 8, "when committed by a person holding public authority or performing a public service function in the exercise of his functions or mission". With regard to the existence of an independent body to investigate violations of the right to respect for physical integrity, a long-standing institution in the Dominican Republic is the Public Prosecutor's Office, which is responsible for prosecuting those who violate the criminal laws; as a member of the Judicial Police, its task is to investigate crimes and offences. In addition to this institution, Act No. 19-01 recently established the office of People's Advocate. It can be stated categorically that torture has been eradicated, both in criminal investigations, in that representatives of the Public Prosecutor's Office are present from the outset and at every stage of the investigation, and in the prisons, now that the persons who were in control of the prisons, and used such practices for personal purposes, have been eliminated.

33. **Paragraph 10.** With regard to the jurisdiction of the National Police courts, we are pleased to inform the Committee that the legislature of the Dominican Republic is currently considering bills to reform the Constitution of the Republic, the Penal Code and Code of Criminal Procedure, and the Act governing the National Police. The latter involves an extensive reform of the police force to make it a key instrument for enforcing the rule of law and a respected service institution dedicated to the protection of human rights. It should also be noted that the current chief of police is a career officer trained by the police academy and fully committed to human rights. We are also pleased to state that, at the authorities' initiative, the Institute of Human Dignity of the National Police which is responsible for developing respect for human dignity among police officers, has just begun operation. As a result of all these measures,

there has been a sharp decrease in the number of extrajudicial deaths for which the National Police have been responsible, and all complaints are being investigated and all accused persons tried by ordinary courts. It may therefore be stated that the authorities' emphasis on the right to life, with all its legal consequences, is a sign of their genuine commitment to the promotion of and respect for human rights in the Dominican Republic.

34. **Paragraph 11.** There is no doubt that the large number of prisoners in pre-trial detention is the most serious problem affecting the justice system in the Dominican Republic. Mention should be made, however, of the efforts of the Office of the Attorney-General to improve the situation by regularly conducting initiatives in the country's prisons to reduce the number of such prisoners. The Supreme Court of Justice has also ordered judges to hold hearings within the prisons and ordered the courts to streamline proceedings with a view to expediting the judicial process and reducing the number of prisoners in pre-trial detention. The Commissioner for the Reform and Modernization of the Justice System has also helped to reduce the number of prisoners in pre-trial detention through the Public Defence Programme, which aims particularly at helping prisoners in pre-trial detention who cannot afford a lawyer. Another important step was the adoption by the National Congress of the new Code of Criminal Procedure, which improves the administration of justice in the country by requiring judges to hold hearings in the prisons and by making prison the exception rather than the rule.

35. **Paragraph 12.** Among the rights of citizens laid down in our Constitution is the right of communication during the investigatory phase of the proceedings. This right has been a subject of concern to the Dominican authorities, and in recent months, as a result of the favourable changes introduced in the National Police, detainees are increasingly able to communicate with their relatives during the pre-trial phase.

36. **Paragraph 13.** The Supreme Court has repeatedly stated that habeas corpus proceedings should be heard as swiftly as possible, to the point that judges who fail to observe due process should be suspended. The Dominican Republic is bringing major efforts to bear to ensure that its citizens have access to a justice system that respects human rights; these efforts are expected to produce positive and verifiable results in the very near future.

37. **Paragraph 14.** The Government of the Dominican Republic has been tireless in its efforts to improve prison facilities, despite the fact that the country is a poor one with limited resources. For example, 880 new cells were built in the Judicial Department of Santo Domingo in 2001 and construction is about to begin on two new prison compounds with a 2,800-inmate capacity. Other measures have been taken to avoid overcrowding in prisons: (a) a greater number of persons have been granted presidential pardons; (b) the Attorney-General has instructed the members of the Public Prosecutor's Office to appeal judicial decisions only when strictly necessary; and (c) new means of transport have been acquired for taking prisoners to the courts. Likewise, prisoners' conditions with regard to health and food have been substantially improved.

38. **Paragraph 15.** Prisons in the Dominican Republic are under the responsibility of the Director of Prisons, a civilian official who reports to the Attorney-General. The Directorate of Prisons has elaborated a draft statute, which the Government is preparing to implement this year,

for the training of civilian staff to administer and supervise the prisons and to take over the functions currently performed by members of the army and police in the prisons.

III. MIGRANT WORKERS

39. In its concluding observations the Committee expresses concern at the precarious situation of many Haitian immigrants in the Dominican Republic. We should like to point out that the Dominican Republic is a poor country with insufficient resources to provide for the rights of its own citizens. As our President, Mr. Hipólito Mejía, and our Chancellor, Mr. Hugo Tolentino Dipp, have stated at various international summits, "It is impossible for the Dominican Republic alone to bear the social burden placed on it by the migration of hundreds of thousands of Haitian citizens." Our Government has on several occasions sought the international community's help in finding a human rights-oriented solution to the growing problem of Haitian immigration.

40. Nevertheless, despite its limited resources, the Government has reduced the number of repatriations and has attempted to conduct repatriations with greater respect for the international treaties which the country has signed.

41. In addition, it has broadened communication channels with the Government of Haiti by establishing several commissions and other bodies that seek, in an atmosphere of cooperation, to lay down clear rules for the exchanges needed for the strengthening and development of both peoples. It has issued new guidelines enabling undocumented Haitians in the Dominican Republic to have access to certain services, an example being the decision of the Secretary of Education to allow children to register for school without submitting a birth certificate, which had been required through September 2001.

42. It should also be mentioned that the authorities have prepared a preliminary draft migration law which advocates a new conception of the migration process in which migration is dealt with not only as a problem to be solved, but also as a component of the development process which should be regulated and controlled, in respect of both emigration and immigration.

43. From this new perspective, State intervention in the migration process should not be seen as a repressive mechanism aimed at controlling immigration flows, but as an efficient mechanism for regulating such flows. From this standpoint, the right of every sovereign State to control and regulate movement by its nationals when leaving or returning to the country, as well as movement by foreigners who leave or enter its territory, shall not be exercised solely as a police function, but also as a function designed to organize a complex process, one of the components of which is efficient control in the hands of competent authorities.

44. The preliminary draft commits the Dominican State to respect the rights of migrants with a view to more effective enforcement of the standards set by the international instruments which it has signed.

45. As leadership is now in the hands of the Partido Revolucionario Dominicano, the party of José Francisco Peña Gómez, who was the victim of a racist campaign based on his Haitian origins and fomented by the most conservative sectors of Dominican society, we may state that discrimination against Haitians as an official policy does not exist in the Dominican Republic.

46. The Government's main concern is to combat exclusion and social inequality by seeking mechanisms to integrate society as a whole and ensure that anti-Haitian practices are a thing of the past. For the first time, a Dominican president has come out in favour of enhancing the status of the batey; the current President, Mr. Hipólito Mejía, stated: "Therefore, since we bank on the future, we cannot remain passive in the face of situations that involve the direst poverty and that offend our humanitarian conscience. If we ask ourselves what best symbolizes this type of situation, I believe we would all say, living conditions in the bateys."

The Committee's observations concerning migrant workers

47. **Paragraph 16.** One of the features of migration in all countries that share borders with countries whose economic development is not equal to their own is the illegal entry, on a daily basis, of hundreds of persons, in violation of all migration controls, obliging the receiving State to exercise a migration policy of return, refoulement or expulsion. Despite such steady and illegal immigration of Haitian citizens to our country, the Dominican Republic wishes to repeat that there is absolutely no possibility that a Haitian citizen legally in the Dominican Republic would be repatriated in violation of or disregard for that fact. We have established a deportation process for citizens of our sister country which comprises three stages:

(a) Detention and identification. This is the first contact of Dominican inspectors and officials with citizens to be repatriated, and provides the latter (the citizens to be repatriated) with an opportunity to present the documents entitling them to remain in the country legally;

(b) Investigation and processing. In this stage the documents presented, if any, are investigated and the accuracy of the data they contain verified of the detainees' alleged place of residence. During this process, foreign citizens who are detained are permitted to contact their relatives, if any, and ask them to bring any documentation attesting to their migration status in the country, as well as assistance for their return;

(c) Final verification. Prior to final repatriation through the Jimaní and Dajabón frontier posts, a last check is made of whether the citizen to be repatriated can demonstrate that he or she holds legal status in the country. The Haitian consuls in Jimaní and Dajabón are given an opportunity to participate in this final process, in order to verify that the persons to be repatriated do not hold documents entitling them to reside in the Dominican Republic legally and to verify that the person holds Haitian nationality.

48. It should be noted that the migration authorities have repeatedly and publicly invited various NGOs in the Dominican Republic to become involved in the repatriation process described above.

49. These three stages are designed to be applied to persons in the country illegally, as persons who provide documents showing that their situation is legal are simply not repatriated.

The process described above guarantees that deportations are conducted fairly and legally, with full respect for human rights, and has been praised on several occasions by Haitian officials and diplomats, given that the Dominican authorities have made the following commitments in connection with this process:

They agree not to conduct repatriations during the night, i.e. between 6 p.m. and 6 a.m.;

They agree not to separate family units (parents and minor children) during repatriation;

They agree to conduct repatriations through the frontier posts of Jimaní/Malpasse, Dajabón/Juana Mendez, Elías Piña/Belladere, and Pedernales and Anse-à-Pitre. The Haitian Government, for its part, has pledged to strengthen and/or establish migration inspection posts in frontier areas that will be receiving repatriates;

They make every effort to ensure that repatriates are allowed to keep their personal effects with them and to avoid keeping back repatriates' personal papers, except where such papers, in the opinion of the migration inspectors, give evidence of irregularities;

They provide all repatriates with a copy of their individual form containing the repatriation order;

They agree to transmit in advance the lists of repatriates to accredited Haitian consuls in the Dominican territory.

50. **Paragraph 17.** Most of the Haitian nationals working in the Dominican Republic are found in construction, agriculture and the sugar industry. They work alongside Dominicans, and both receive the same treatment in the area of hiring and working conditions, as there are no differences in either salary or treatment. Concerning hiring, it should be pointed out that, with the sale or leasing of formerly State-owned sugar plantations, the State no longer takes part in the hiring of Haitian nationals for the planting and harvesting of sugar cane and has no control over the hiring of foreign or Dominican nationals, as policy has been that private plantation owners may hire their staff directly. Labour inspectors who formerly worked only in the sugar industry now work together with the other inspectors to monitor workers' human rights and take measures in cases of violation, not only in the sugar sector but in all other sectors using both foreign and Dominican labour. If violations of labour law occur the matter is submitted to the appropriate courts. Likewise, the Dominican Republic has signed the Abolition of Forced Labour Convention, 1957 (No. 105), which is being satisfactorily applied.

51. **Paragraph 18.** The Dominican Republic's legislation contains various substantive and adjectival legal provisions. Such provisions determine how Dominican nationality is acquired and the rights and prerogatives not only of our nationals but of all persons residing in the country.

52. Article 43 of Act No. 659 of 1944 governing Civil Status Acts and the amendments thereto establishes the following principle: "The birth of a child shall be declared by the father,

or, if no father is present, by the mother, or by doctors, surgeons, midwives or any other person who has been present at the birth; if the birth has occurred away from the mother's residence, the declaration shall also be made by the person in whose house it took place."

53. Similarly, article 46 of the Act (amended by Act No. 1215 of 1946), states: "The birth certificate shall contain: the day, time and place of birth, the child's sex and names given to it; the first names, last names, age, profession or occupation, domicile and nationality of the father and mother, if the child is legitimate, or of the mother if it is a natural child, and those of the father if he appears personally to recognize the child; and the first names, last names, age, profession or occupation, domicile, nationality and number, series and seal of the declarer's national identity card." To declare a birth Civil Register offices ordinarily require only the clinic's certification of the birth, indicating the baby's sex, the date of birth, the name of the mother and the identity card numbers identifying the parents, and, if the parents are married, the marriage certificate, provided the declaration is made within the time limits established by the law.

54. Act No. 13 of 22 June 1993 stipulates: "The declaration shall be made in the Civil Register office where names are registered within a period of sixty (60) days. If there is no Civil Register office in the place where the birth has taken place, the declaration shall be made within ninety (90) days before the officer of the Civil Registry located in its judicial district."

55. If for any reason the declaration of birth does not take place within the time limit, the law considers it to be a late declaration; in such cases it is the duty of the Central Electoral Board, on the basis of the legislation in force, to require the following as guarantees of the declaration's accuracy:

(a) In the case of children through the age of 12:

(i) Certificate of birth containing the child's sex, the date of the birth and the mother's name;

(ii) Identity of the mother, if the child born is a natural child, and of the father, if he comes forward to declare the birth and recognize the child in writing;

(iii) Parents' marriage certificate, if married;

(iv) Certificate of registration in school, if the child attends a school;

(b) For declarations concerning children of 13 and over:

(i) Certificate of birth containing the child's sex, the date of the birth and the mother's name;

(ii) Certificate of registration in a public or private school, containing the most recent academic level and the status of the person whose birth is being declared and indicating that no prior birth certificate exits;

(iii) Identity of the mother, if the child born is a natural child, and of the father, if he comes forward to declare the birth and recognize the child in writing;

(iv) Parents' marriage certificate, if married;

(v) Certificate of baptism issued by the parish in which the birth took place; if the persons in question are not of the Catholic religion, the certificate shall be issued by the church of the religion practised;

(vi) Certification of whether the person whose birth is being declared has been issued an identity card;

(vii) Certification by the Civil Register office of the judicial district in which the birth took place, to the effect that a person in respect of whom a late birth declaration is being made is not registered in that office, when it is wished to declare the birth away from the place where the birth occurred; if there is more than one Civil Register office in the place of birth, each one is obliged to issue such certification;

(viii) Sworn statement by three witnesses at least 50 years of age attesting to the birth. The form used for this purpose shall be form OC-25, which is reserved for careful use by the Civil Register officer.

56. It should be added that all late declarations must be confirmed by a ratification judgement issued by the competent court. It should be noted that the above-mentioned requirements, established in a decision of the Central Electoral Board, refer to the children of Dominican nationals. There is in principle nothing to prevent foreigners from declaring the birth of children born in Dominican territory to the corresponding Civil Register office, provided they appear with their identity papers accrediting them as legal residents; if not legal residents they would normally register the birth with their respective diplomatic and consular officials, as established for Dominican nationals in article 8 of Act No. 659, which states: "In foreign countries the functions of the Civil Register officer shall be exercised by diplomatic and consular officials."

57. Act No. 95 of 1939 governing immigration, together with its amendments, makes a series of distinctions concerning foreigners, one of its articles stating as follows:

"ARTICLE 3. Foreigners who wish to be admitted into Dominican territory shall be considered either immigrants or non-immigrants.

Foreigners who wish to be admitted shall be considered immigrants, unless they come under one of the following categories of non-immigrants:

1. Persons visiting the country for purposes of business, study, recreation or personal interest;

2. Persons transiting through the territory of the Republic on their way to other countries;

3. Persons employed on sea or air vessels;

4. Seasonal workers and their families.

Foreigners admitted as immigrants may reside in the Republic indefinitely. Non-immigrants will only be granted temporary admission, governed by the conditions laid down in Migration Regulation No. 279 of 12 May 1939, unless a foreigner admitted as a non-immigrant is subsequently able to be considered an immigrant through fulfilment of the requirements relating to immigrants.

Seasonal workers will be admitted into Dominican territory only when agricultural enterprises so request, and in the numbers and under the conditions laid down by the Secretary of the Interior and Police in order to meet the needs of such enterprises and to monitor the workers' temporary entry into the Dominican Republic and return to the country from whence they came."

58. Along the same lines, Migration Regulation No. 279 of 1939 stipulates the following in respect of seasonal workers:

"SECTION VII. SEASONAL WORKERS AND THEIR FAMILIES

(a) Day labourers required by agricultural enterprises for harvesting shall be admitted as seasonal workers.

(b) A collective request to bring in seasonal workers must be submitted to the Secretary of the Interior and Police by the agricultural enterprises concerned prior to the date on which they are needed. The request should contain the number of seasonal workers to be brought in, their nationality, the port or ports of entry, the number estimated to be entering at each port, if more than one port is mentioned, the approximate date of entry and the exit date. The request should also state that the person bringing in the workers assumes responsibility for their transport from the port of entry to the place where they will be working as well as responsibility for repatriation, and that repatriation shall take place within 15 days following the completion of the harvest and in such a way, if it is conducted over one of the Republic's land borders, that large numbers of workers do not remain scattered in the border area.

(d) When seasonal workers see fit to have their families accompany them, the families shall be admitted, in addition to the seasonal workers whose entry is being

authorized, but in no case shall family members be admitted in numbers exceeding the total number of persons agreed on by the person bringing in the workers and the Secretary of the Interior and Police. Admission of family members shall be subject to the same conditions laid down for the workers' transport, repatriation and security, provided, in addition, that they accompany the head of the family and reside and leave with him.

(e) Foreigners admitted as seasonal workers and the members of their families accompanying them shall be issued a temporary residence permit for seasonal workers during harvesting, form B3. The fee for issuance of such a permit is $4.00, except in the case of a child under 10 accompanied by his or her father, who shall be exempt from payment of the fee. The permit should be kept by the person bringing the worker in and the documents attesting to its existence must be borne by the person for whom it was issued at all times during his or her stay in the Republic. The permit must be returned to the Inspector of Migration on exit from the country.

The following paragraphs were added by Decree No. 4935 of 13 February 48, *Gaceta Oficial* No. 6753:

(f) Any agricultural enterprise that invokes the rules laid down in article 3, paragraph 4 of the Migration Act, must give a complete account of all seasonal workers who have arrived in the country in each group, using a form prepared by the Department of Migration for that purpose, within 30 days of arrival.

(g) Within 30 days of the arrival of each group of seasonal workers or relatives covered by a permit, the enterprise that brought them into the country must transmit to the Department of Migration four portrait photographs of each worker, two profile and two front view.

(h) All agricultural enterprises must submit to the Department of Migration, using a form prepared by the Department for that purpose, in the early months of every calendar year, a complete account of all foreign workers in its employ.

(i) Each time an agricultural enterprise hires a seasonal worker who has been brought into the country by another enterprise it must submit a report to the Department of Migration and send four portrait photographs of the new workers hired in the manner described above. The report and photographs must be submitted within 30 days of hire.

(j) In all of the above cases, the Department of Migration, on receiving a justified request, may grant extensions for the submission of the photographs.

(k) When the agricultural enterprise cannot attest to the fact that it has repatriated the workers or that they are employed by another person, it is obliged to pay the immigration tax in accordance with Act No. 95 of 14 April 1939."

59. Article 11 of the Constitution of the Republic stipulates:

> "The following are Dominicans:
>
> 1. All persons born in the territory of the Republic, with the exception of the legitimate children of foreigners resident in the country as diplomatic representatives or foreigners in transit through the country."

60. The Dominican Constitution and laws determine who shall be granted Dominican nationality.

61. What does **transit** mean? Those who stop in a port on their way to another destination? Those who are in a country illegally? Those who are not permanent residents? Those seasonal workers who are hired for a specific task and obliged to return to their country? Article 16 of the Civil Code stipulates that transient foreigners are obliged to post bond when they take part in legal proceedings or appear before a court voluntarily. With regard to the interpretation of the concept of transient foreigner, the Supreme Court in its case law has consistently maintained that the term transient foreigner refers to a foreigner who does not legally reside in the country and does not own real estate, and that consequently, foreign residents and foreigners who own real estate in the country are not obliged to post bond *judicatum solvi*. See in this connection B.J. 1047.267, February 1998; and B.J. 1042.265.17, September 1997.

62. As part of its ongoing effort to provide all persons in the country with legal papers, on 16 January 2002 the Dominican Republic agreed with Haiti to begin a process enabling the Haitian authorities to provide its nationals in Dominican territory with papers; this process began on 4 March 2002.

IV. SITUATION OF WOMEN

63. In the framework of the obligations it accepted on adopting several domestic laws and on ratifying various international treaties, the Dominican Republic has been applying policies aimed at achieving full equality between women and men in the different sectors of life in society.

64. Numerous laws, treaties, protocols and other instruments have expanded the rights of women and sought to eliminate the discrimination to which they have traditionally been subjected. Worthy of mention is the decision of 8 June 2001 adopting the Optional Protocol to the Convention on the Elimination of All Forms of Discrimination against Women.

65. Similarly, domestic adjectival legislation has introduced certain reforms aimed at expanding and protecting women's rights. Significant laws have been enacted, including Act No. 12-2001, which allocates a 33 per cent quota to women in elective posts and Act No. 974-01, establishing in every State Secretariat an Office for Gender Equality and Development, under the supervision of the State Secretariat for Women. Mention should also be made of the establishment of the State Secretariat for Women through Act No. 86/99, based on important and relatively innovative principles in the Dominican Republic.

66. In recent years women have achieved significant progress in all three branches of Government:

(a) In the executive branch, the Vice-Presidency of the Republic is held by a woman;

(b) Women hold 26 seats in the legislature, and a woman is President of the Chamber of Deputies;

(c) In the judiciary, the percentage of women in the Supreme Court of Justice is 33.3 in the appeals courts, 33.6 and in the courts of first instance and magistrates courts, 33.6.

67. Despite all these achievements, the Government, convinced that women's problems should be addressed within the framework of a general social policy, has designed an Anti-Poverty Programme that seeks to provide encouragement and incentive for action to improve significantly the living standards of Dominican households, especially those headed by women. Among the activities undertaken by the Government are the following:

Monthly financial allotments to guarantee school attendance by children;

Granting of loans with soft interest rates to businesswomen;

Increase in the quantity and quality of women's jobs;

Implementation of housing plans;

Improvement of public services.

68. Similarly, the Government, through the State Secretariat for Women, has planned and implemented various means of helping women defend their rights, including:

Women's protection squads within the National Police (Villa Juana, San Francisco, Santiago);

Legal and psychological clinic of the State Secretariat for Women;

Centres for the victims of sexual abuse;

Centres for abused women;

Support networks for women victims of violence.

69. In addition, the National Magistrates' School, in coordination with the State Secretariat for Women, is implementing a programme entitled "Towards equal survival", aimed at training judges throughout the country in domestic violence. An agreement has been signed with UNICEF for that purpose.

70. The implementation of many of these measures has enhanced, and had very positive implications for, women's development, among which the following are worthy of mention:

Dominican women own 46.8 per cent of the country's microenterprises;

The proportion of women smallholders rose from 7 per cent to 10 per cent in only three years, due to the implementation of Act No. 55-97 amending the agrarian reform;

There is a growing trend towards integrating women into all areas of education, in particular higher education, in which women are estimated to account for more than 60 per cent of the total number of students enrolled.

The Committee's observations

71. **Paragraph 19.** As regards the information which the Committee requested to evaluate the initiatives taken by the Dominican Republic to address the problem of domestic violence, mention may be made of the following:

(a) Establishment in November 1998 of the National Commission for the Prevention of Family Violence (CONAPLUVI), which is the body responsible for all initiatives aimed at preventing family violence, which chiefly affects women, children, teenagers and older people. CONAPLUVI is made up of eight government agencies from the justice, police, health, education and development sectors and three NGOs working in the area of women's issues. It also works in association with other institutions, including international organizations;

(b) Establishment of CONAPLUVI's national strategic plan, as a tool aimed at the enhancement and increased efficiency of efforts to prevent and eradicate family violence. It is based on eight ethical principles for action, including social equity, the gender perspective and respect for human rights. Its objectives are to reduce people's vulnerability in the face of violence and to help change attitudes and values that legitimize violence;

(c) Social and community participation through a participatory process involving 26 institutions from all the sectors concerned;

(d) Regional Pilot Project on the Prevention of Violence against Women - Dominican Republic Programme, conducted from 1998-2001 and funded by the Inter-American Development Bank. The programme led to the elaboration of the National Standards for Comprehensive Health Care in the Area of Family Violence against Women, whose aim is to provide general technical and administrative guidelines for providing comprehensive health care to women affected by violence, at the different levels of care and from a multisectoral and gender perspective; the standards apply to public and private centres offering prevention and care services in the area of violence and cover the entire Dominican territory; an Integral System for Recording Cases of Family Violence; and a Diagnostic Study of the Situation with regard to Family Violence, which identifies and assesses the quality and availability of the services provided to women victims of violence and existing prevention programmes. In addition to the

diagnostic study, other studies have been conducted providing further information on levels and characteristics of violence, including the Health and Population Survey, one of the country's most representative surveys;

(e) The State Secretariat for Public Health and Social Welfare runs care and prevention programmes in the area of violence, including the National Programme on Domestic Violence and Sexual Abuse of the Department of Mental Health and the Care Centre for Abused Women, which provides specialized attention for women victims of sexual violence;

(f) In the justice sector, the National District Prosecutor established the Department of the Family, comprised of two specialists in cases of family violence;

(g) The National Programme of Care and Prevention in the Field of Violence against Women, run by the Department of Non-Violence of the State Secretariat for Women, is aimed both at promoting mechanisms for reducing domestic violence and sexual abuse and at implementing, in coordination with the various governmental and non-governmental agencies, measures to decrease violence. This programme has two components, one providing care and services (legal clinics, police departments attentive to women's needs) and the other, training. The implementation of this programme led to the establishment in May 2001 of the National Model for Care and Prevention in the Field of Family Violence, which has the following objectives: guaranteeing that sectors of Government and civil society take on the essential task of promoting a culture where respect, equal opportunity and peaceful dispute settlement become a part of daily life; guaranteeing that these sectors take responsibility for providing persons affected by violence with comprehensive care; strengthening inter-agency and community coordination, follow-up and evaluation of programmes and services aimed at promoting a life free of violence; and detecting and providing care for cases of family violence. This programme seeks to ensure that gender violence is addressed as a public health problem and that its treatment is incorporated into all plans and measures aimed at prevention, care and epidemiological recording of cases, based on 14 lines of action that include efforts in the area of information, education and communication and the conducting of prevention and care programmes;

(h) Non-governmental organizations that have been working for more than two decades in the area of violence against women and approach the problem from different perspectives or bases for intervention.

72. Lastly, we shall refer to the Committee's remaining concerns:

73. **Paragraph 20.** Freedom of thought and expression is a right that is not only guaranteed by Dominican laws but is also fully enjoyed by all the inhabitants of Dominican territory. Human rights defence groups regularly report violations publicly in the country's media, as Amnesty International acknowledged in its June 2001 report. Dominicans today may express and publicly profess their ideas and thoughts with complete freedom, a right that was inconceivable until just a few years ago, hence the Dominican Republic can only repeat its earlier statement to the effect that the country fully respects the provisions of article 27 of the International Covenant on Civil and Political Rights. The Dominican authorities invite the

Committee to point out any violation whatsoever of the provisions of article 27 which has come to their attention; it may rest assured that the Dominican Republic will conduct an exhaustive investigation of the allegations.

74. **Paragraph 21.** Dominican legislation does not provide for compulsory military service, as the Committee appears to assume on using the term "conscientious objector". In accordance with the Presidential Decree of 3 March 2001, military service in the Dominican Republic is voluntary, hence by its very essence permits any conscientious objector not to participate.

75. **Paragraph 22.** There have been no acts of disrespect of authority committed in the Dominican Republic against any judicial decision, nor has there been any complaint or dispute on this subject.

V. CONCLUSIONS

76. In recent years, government authorities have shown a growing and sustained interest in establishing mechanisms to strengthen the protection and promotion of human rights.

77. Important recent initiatives reflect a marked interest in developing effective policies for modernizing and humanizing Dominican society.

78. Many extremely important themes such as the judicial and police reform, enhancing the status of prisons and bateys and protection of the most vulnerable groups are on the country's agenda and have been the subject of useful proposals from both the Government and civil society.

79. Continuing to intensify action aimed at fully guaranteeing the fundamental rights of all Dominicans is a priority goal of the current authorities of the Dominican Republic.